

ROBERT WRIGHT

IBLA 81-524

Decided January 20, 1982

Appeal from decision of the Arizona State Office, Bureau of Land Management, declaring mining claims abandoned and void. A MC 24647 and A MC 24648.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Administrative Authority: Generally--Federal Employees and Officers: Authority to Bind Government

Reliance upon erroneous or incomplete information provided by Federal employees does not create any rights not authorized by law.

APPEARANCES: Robert Wright, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Robert Wright appeals from the March 26, 1981, decision of the Arizona State Office, Bureau of Land Management (BLM), which declared his Patann I and Patann II mining claims (A MC 24647 and A MC 24648) abandoned and void for failure to comply with the recording requirements set by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulations found in 43 CFR 3833.2.

Appellant located these claims 1/ on May 1, 1978, and recorded the notices of location with BLM on July 12, 1978. BLM received no further filings in 1979 or 1980. On January 2, 1981, the Arizona State Office received additional copies of the location notices and a copy of a receipt for road repair.

Appellant argues on appeal that he received incorrect information from a BLM employee with respect to documents due December 1980. He claims that he mailed the required papers before December 30, 1980, and so he should not be penalized for postal delays. He claims that BLM failed to inform him about the filings due in 1979.

[1] Section 314(b) of FLPMA, 43 U.S.C. § 1744(b) (1976), and the implementing regulation, 43 CFR 3833.2-1(c) require that the owner of an unpatented mining claim located after October 21, 1976, shall, on or before December 30 of each calendar year following the year of location, file with BLM a notice of intent to hold or proof of the assessment work performed on the claim during the previous assessment year. 43 U.S.C. § 1744(c) (1976). Therefore, since the claims were located in 1978, the initial evidence of assessment work or notice of intention to hold the claim was due in the BLM office by December 30, 1979.

Failure to comply with the statutory requirements governing the recordation of information relative to unpatented mining claims must result in a conclusive finding that the claim has been abandoned. Edward P. Murphy, 48 IBLA 211 (1980); G. H. Monk, 47 IBLA 213 (1980); 43 CFR 3833.4. The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); A. J. Grady, 48 IBLA 218 (1980).

[2] Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. 44 U.S.C. §§ 1507, 1510 (1976); Schweiker v. Hansen, 450 U.S. 785 (1981); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). Reliance on erroneous or incomplete information provided by BLM employees does not relieve the owner of a mining claim of an obligation imposed by statute, or create rights not authorized by law, or relieve the claimant of the consequences imposed by the statute for failure to comply with its requirements. Atlantic Richfield Co. v. Hickel, 432 F.2d 587 (10th Cir. 1970). Therefore, BLM correctly determined that these claims were abandoned and void as of December 31, 1979. 2/

1/ A colocator, Don L. Sexton, did not participate in this appeal.

2/ We note also that appellant's subsequent filings were not timely. Filing is accomplished when a document is delivered to and received by the proper BLM office. See Don Chris A. Coyne, 52 IBLA 1 (1981); 43 CFR 1821.2-2(f).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Arizona State Office is affirmed.

James L. Burski
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Douglas E. Henriques
Administrative Judge

